

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Maura Roche	Team: Squad #4	CCRB Case #: 201707351	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 03/29/2017 6:00 PM	Location of Incident: § 87(2)(b)	Precinct: 67	18 Mo. SOL 9/29/2018	EO SOL 9/29/2018	
Date/Time CV Reported Wed, 08/30/2017 3:47 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 09/07/2017 12:09 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Miguel Vanbrakle	28743	955616	067 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Daohui Tang	16165	955558	067 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Miguel Vanbrakle	Abuse: Police Officer Miguel Vanbrakle interfered with § 87(2)(b)'s use of a recording device.	§ 87(2)(b)
B.POM Miguel Vanbrakle	Abuse: Police Officer Miguel Vanbrakle threatened to arrest § 87(2)(b)	§ 87(2)(b)

### Case Summary

On August 30, 2017, § 87(2)(b) filed this complaint with IAB by phone. It was received at the CCRB on September 7, 2017.

On March 29, 2017, at approximately 6:30 p.m., § 87(2)(b) was involved in a verbal altercation with her husband, § 87(2)(b) and § 87(2)(b)'s girlfriend, § 87(2)(b) outside of her home, which is located at § 87(2)(b) in Brooklyn. § 87(2)(b) called 911, and two officers, identified by the investigation as PO Miguel VanBrakle and PO Daohui Tang of the 67 Precinct, responded to the location.

PO VanBrakle approached § 87(2)(b) and § 87(2)(b) offered to call her friend on her cell phone so her friend could speak with PO VanBrakle about the incident. PO VanBrakle told § 87(2)(b) to turn her phone off and to stop recording (**Allegation A**). § 87(2)(b) told PO VanBrakle that her phone was not on at that moment and tried to explain the situation. PO VanBrakle told § 87(2)(b) that if she did not quiet down, he would have to arrest her (**Allegation B**). PO VanBrakle took § 87(2)(b)'s contact information, and § 87(2)(b) went back into her home.

PO VanBrakle prepared a Domestic Incident Report (BR 01) and a Complaint Report for harassment (BR 02) in regards to this incident. No arrests were made or summonses issued

There is no video footage of this incident.

### Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this case.
- As of November 13, 2017, no Notice of Claim has been filed regarding this incident (BR 03).
- § 87(2)(b) has had no criminal convictions in New York City in the past ten years (BR 04).

### Civilian and Officer CCRB Histories

- This is the first CCRB complaint filed by § 87(2)(b) (BR 05).
- PO VanBrakle has been a member of the NYPD for four years. There are 12 prior allegations against him stemming from four complaints, none of which were substantiated. There are three allegations stemming from one complaint currently being investigated by the CCRB. § 87(2)(g)

### Findings and Recommendations

**Allegation A – Abuse of Authority: Police Officer Miguel VanBrakle interfered with § 87(2)(b)'s use of a recording device.**

**Allegation B – Abuse of Authority: Police Officer Miguel VanBrakle threatened to arrest § 87(2)(b)**

It is undisputed that PO VanBrakle and PO Tang responded to § 87(2)(b) in Brooklyn on March 29, 2017, at approximately 6:30 p.m., in regards to a 911 call. The surrounding circumstances are in dispute.

§ 87(2)(b) (BR 07) said she was outside of her home talking to a friend on her cell phone when § 87(2)(b) parked her car on the street in front of an alleyway next to her home. § 87(2)(b) has been involved in an ongoing dispute with § 87(2)(b) because of § 87(2)(b)'s relationship with § 87(2)(b)'s husband. § 87(2)(b) immediately began screaming profanities at § 87(2)(b). § 87(2)(b) disengaged the phone call with her friend and called 911. § 87(2)(b) tried to explain to the 911 operator that § 87(2)(b) had threatened her with a knife in a past incident. § 87(2)(b) was stammering and very nervous, so she was not sure how well she was able to convey this to the 911 operator.

§ 87(2)(b) who had been inside the home, approached § 87(2)(b)'s car. § 87(2)(b) who was a few feet away, could not hear what they were saying. While they were talking, § 87(2)(b) called 911 at least one more time, but she could not remember what she said because she was so upset by the situation.

Approximately 20 minutes after § 87(2)(b) first called 911, PO VanBrakle and PO Tang arrived at the location. When § 87(2)(b) saw the police car, she began waving her arms and yelled to the officers that she was the one who had called them. § 87(2)(b) did this because she did not want the officers to think that § 87(2)(b) was the person who needed help.

PO VanBrakle ran up to § 87(2)(b) while repeatedly telling her to, "Stay back," even though § 87(2)(b) was standing still and had stopped moving her arms. As § 87(2)(b) tried to explain the situation to PO VanBrakle, he told her to "Shut up," and asked for § 87(2)(b)'s license, which she immediately provided. § 87(2)(b) told PO VanBrakle that she had been talking on the phone with a friend when § 87(2)(b) first started screaming profanities at her, and § 87(2)(b) offered to call her friend so PO VanBrakle could talk to her as a witness. PO VanBrakle told § 87(2)(b) "I don't want to talk to nobody. I don't want to hear it. Turn off that phone, and stop taping me." § 87(2)(b) told PO VanBrakle that she was not taping him and showed him that her phone was turned off.

PO VanBrakle, who still had § 87(2)(b)'s license, went to speak with § 87(2)(b) and § 87(2)(b) who was still sitting in her car. After speaking with them for a few moments, PO VanBrakle returned to § 87(2)(b) and told her that § 87(2)(b) accused § 87(2)(b) of threatening to kill her. § 87(2)(b) denied this and tried to explain her side of the situation. PO VanBrakle repeatedly told § 87(2)(b) to be quiet and to step back, but § 87(2)(b) continued to tell PO VanBrakle that she had called 911 and that they should be helping her and not § 87(2)(b) and § 87(2)(b). PO VanBrakle told § 87(2)(b) two times, "If I have to tell you to shut up one more time, I'm going to have to arrest you." After PO VanBrakle threatened to arrest § 87(2)(b) the second time, she quieted down.

PO VanBrakle wrote down the information on § 87(2)(b)'s ID card and handed it back to her. He then told § 87(2)(b) to go back into her house, which she did. Once inside the house, § 87(2)(b) could see PO VanBrakle talking to § 87(2)(b) and § 87(2)(b) and obtaining IDs from them. PO VanBrakle wrote some things down and then handed § 87(2)(b) a pink piece of paper.

PO VanBrakle returned to his car and left the scene. § 87(2)(b) did not ever see PO Tang leave the car and did not have any interactions with him.

§ 87(2)(b) (BR 06) arrived at § 87(2)(b) home around 6 p.m. to drop off a gift for § 87(2)(b). As soon as § 87(2)(b) saw § 87(2)(b)'s car, she approached and started taking pictures of the car while screaming obscenities at § 87(2)(b). § 87(2)(b) threatened to kill § 87(2)(b) if § 87(2)(b) touched § 87(2)(b). § 87(2)(b) then called 911.

When PO VanBrankle and PO Tang arrived at the location, § 87(2)(b) remained in her car, and § 87(2)(b) went to meet them in the middle of the street. § 87(2)(b) stood by the driver's side door talking to PO VanBrakle. PO Tang exited the car and approached § 87(2)(b). By that time, § 87(2)(b) had come to § 87(2)(b)'s car, so PO Tang spoke with both of them. From where she was situated inside the car, § 87(2)(b) could not hear any of the conversation between PO VanBrakle and § 87(2)(b). § 87(2)(b) did not hear any threats of arrest nor did she hear anyone tell § 87(2)(b) to stop recording. § 87(2)(b) was similarly positioned, and denied witnessing the allegations.

PO VanBrakle (BR 08) and his partner, PO Tang, received a radio call for a 10-39, which is an other crime in progress. The radio call indicated that there was a fight between a wife, husband, and girlfriend and that a knife may have been involved, but PO VanBrakle could not remember any other information that the original radio call contained.

When PO VanBrakle arrived at the location, he and PO Tang exited the car. PO VanBrakle saw § 87(2)(b) standing calmly on the sidewalk and § 87(2)(b) who appeared to be nervous because he was sweating on a relatively cool day, standing on his front stoop. He could hear § 87(2)(b) screaming obscenities at § 87(2)(b) from inside the house, but could not see her because the door was closed. PO VanBrakle approached § 87(2)(b) and asked him if he or anyone else there had a knife and § 87(2)(b) replied that no one did. PO VanBrakle did not see anyone holding a knife, so he determined that there were no knives involved in the incident.

PO Tang walked a few steps away to speak with § 87(2)(b) while PO VanBrakle continued to speak with § 87(2)(b) who explained that he was having an ongoing issue with § 87(2)(b) about his relationship with § 87(2)(b). After speaking with § 87(2)(b) PO Tang told PO VanBrakle that § 87(2)(b) had threatened to kill § 87(2)(b) at an earlier time. PO VanBrakle did not ever speak with § 87(2)(b).

PO VanBrakle told § 87(2)(b) that § 87(2)(b) needed to get § 87(2)(b) to calm down because domestic situations can quickly get out of hand. § 87(2)(b) gave his and § 87(2)(b)'s information to PO VanBrakle so that PO VanBrakle could complete a Domestic Incident Report (BR 01) and a Complaint Report (BR 02). PO Tang took § 87(2)(b)'s information. After PO VanBrakle completed these reports and gave a copy of the Domestic Incident Report to § 87(2)(b) he and PO Tang left the location. PO VanBrakle did not ever see § 87(2)(b) leave the house, never threatened to arrest her, never told her that she could not record him, and did not issue her any commands of any kind from outside of the house.

PO VanBrakle stated that the Domestic Incident Report (BR 01) was specifically for the incident that PO VanBrakle and PO Tang observed when they arrived. The Complaint Report (BR 02) was for the threat that § 87(2)(b) alleged § 87(2)(b) made against her and was classified as harassment. PO VanBrakle explained that harassment is not something for which a person can be placed under arrest; for that to be the case, an officer personally would have had to witness the threat. PO VanBrakle did not observe anything for which anyone could have been arrested while he was at the location.

PO Tang (BR 09) had little recollection of the incident other than what was noted in his memo book (BR 10). PO Tang and PO VanBrakle received a radio call for an alleged harassment. A female caller had stated that someone was following her and cursing at her. PO VanBrakle and PO Tang both exited the car when they arrived and a male and a woman were interviewed – PO Tang could not remember with whom he spoke. PO Tang did not think that there was a weapon at the location. PO Tang could not remember if PO VanBrakle threatened to arrest anyone or if he told anyone to stop recording or to turn off their phone.

According to the EVENTS (BR 11 and BR 12), § 87(2)(b) made two calls to 911. In the first call, placed at 6:26 p.m., § 87(2)(b) stated that her husband's girlfriend § 87(2)(b) was threatening to stab her. § 87(2)(b) added that § 87(2)(b) was a black female in a gray Mercedes. In her second call to 911, placed at 6:31 p.m., § 87(2)(b) stated that she was being stalked by a black female parked in a silver Mercedes in front of her location. § 87(2)(b) reiterated that the woman had threatened to kill her and that the woman had a bag with her, the contents of which were unknown.

The Domestic Incident Report (BR 01) lists § 87(2)(b) as the victim, § 87(2)(b) as the suspect, and § 87(2)(b) as a witness. The primary allegation is that § 87(2)(b) became upset when § 87(2)(b) came to the location to drop off something for § 87(2)(b) and began yelling at § 87(2)(b) and § 87(2)(b). A statement was taken from § 87(2)(b) but no statement was taken from § 87(2)(b).

The Criminal Complaint (BR 02) lists § 87(2)(b) as the victim of harassment in the second degree, a violation, and § 87(2)(b) as the perpetrator. § 87(2)(b) is noted to be a witness. The primary allegation is that § 87(2)(b) followed § 87(2)(b) on the street and told her, "I'm going to get you because of him" § 87(2)(b).

New York State Criminal Procedure Law section 240.46 (BR 13) states that a person is guilty of harassment in the second degree when, with intent to harass, annoy, or alarm another person, he or she strikes, shoves, kicks, or otherwise subjects such other person to physical contact or attempts or threatens to do the same; or he or she follows a person in or about a public place or places; or he or she engages in a course of conduct or repeatedly commits acts which alarm or seriously annoy such other person and which serve no legitimate purpose. Harassment in the second degree is a violation.

Patrol Guide Procedure 208-01 (BR 14) states that an officer may arrest an individual without a warrant for a petty offense (violations and traffic infractions) in his or her presence when it is believed to have been committed within the arresting officer's geographical area of employment.

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g) [Redacted]  
[Redacted]  
[Redacted]

Squad: 4

Investigator:	_____ Signature	_____ Print	_____ Date
Squad Leader:	_____ Title/Signature	_____ Print	_____ Date
Reviewer:	_____ Title/Signature	_____ Print	_____ Date